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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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GARDERE WYNNE SEWELL LLP INTELLECTUAL PROPERTY SECTION 3000 THANKSGIVING TOWER 1601 ELM ST DALLAS, TX 75201-4761			FUNK, STEPHEN R	
			ART UNIT	PAPER NUMBER
			2854	

DATE MAILED: 04/01/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/315,796

Applicant(s)

DAVIS ET AL.

Examiner

Stephen R. Funk

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~ The MAILING DATE of this communication appears on the cover sheet with the correspondence address ~

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 13 January 2005.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-30, 32-41, 44-48, 58, 82-84, 153, 154 and 156-164 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 1-5, 12-14, 39-41 and 82-84 is/are allowed.
- 6) ☒ Claim(s) 6-11, 15-30, 32-38, 44-48, 58, 153, 154 and 156-164 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- ☐ Notice of References Cited (PTO-892)
- ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____
- ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____
- ☐ Notice of Informal Patent Application (PTO-152)
- ☐ Other: _____

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Claims 35 - 37, 47, 48, and 58 are objected to because of the following informalities:

In each of claims 35 and 36 the steps of "printing an aqueous-based coating" and "printing an ultraviolet coating" would appear to be a double recitation of the now recited "printing said coating" step in claim 34. As currently recited, the steps in claims 35 and 36 appear to recite "further" coatings which does not appear to be supported by the specification.

In claim 37 penultimate line it is not clear if "said flexographic ink pattern" refers to the pattern applied by the first flexographic station, the second flexographic station, or both.

In each of claims 47 and 48 "said substrate" lacks proper antecedent basis as the substrate has not been positively recited in parent claim 44.

In claim 58 line 9 "a first one" should be --the first one--.

Appropriate correction is required.

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

Claims 10, 44 - 47, and 153 are rejected under 35 U.S.C. 102(e) as being anticipated by Hartung et al. (US 5,630,363).

With respect to claim 10, Hartung et al. teach a plurality of successive printing stations, one of said stations comprising a first flexographic printing station (16, column 6 lines 4 - 9), a downstream second flexographic printing station (16, column 6 lines 4 - 9), and at least one of the successive stations comprising an offset lithographic printing station (12 - 15). The offset

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station being "successive" is interpreted as being successive to both the first and second flexographic stations. The recitations of the flexographic station printing an "image" or the lithographic station printing "over" the image are merely an intended use of the apparatus and do not structurally limit the flexographic and lithographic stations. Furthermore, the flexographic and lithographic stations of Hartung et al. are capable of printing a first "image" and printing "over" the first image, respectively.

With respect to claim 44 Hartung et al. teach a first flexographic station (16, column 6 lines 4 - 9), a first lithographic station (11), a second flexographic station (16, column 6 lines 4 - 9), and a second lithographic station (12-15). Again, the recitations of printing an "image" or "on top of" do not structurally limit the stations.

With respect to claim 45 see column 6 lines 8 - 10 of Hartung et al.

With respect to claim 46 the lithographic printing units of Hartung et al. inherently print ink.

With respect to claim 47 see column 1 lines 8 - 10 of Hartung et al.

With respect to claim 153 Hartung et al. teach a first flexographic station (16, column 6 lines 4 - 9), a first lithographic station (12-14), a second flexographic station (16, column 6 lines 4 - 9), and a second lithographic station (13-15).

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

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Claim 48 is rejected under 35 U.S.C. 103(a) as being unpatentable over Hartung et al. Hartung et al. do not teach a web and web feeder. However, webs are notoriously conventional in the art. It would have been obvious to one of ordinary skill in the art to provide the apparatus of Hartung et al. with a web feeder so as to achieve the advantages of printing with a continuous web as opposed to individual sheets.

Claims 6 - 9, 11, 15 - 18, 20 - 23, 25 - 28, 58, 161, and 162 are rejected under 35 U.S.C. 103(a) as being unpatentable over Hartung et al. in view of Bird (US 4,841,903).

With respect to claim 6, Hartung et al. teach a plurality of successive stations comprising a first flexographic printing station (16, see column 6 lines 4 - 9), a suspended metallic material (column 5 lines 2 - 10), and an offset lithographic station (12-15) downstream of the flexographic station. Hartung et al. do not teach the flexographic printing station being offset or a dryer disposed downstream of the flexographic station. Bird teaches an offset flexographic printing station (12, column 5 lines 13 - 18, 40 - 44, column 6 lines 6 - 20) and a dryer (25a, column 3 lines 12 - 25, column 5 lines 51 - 67) disposed downstream of the offset flexographic station. It would have been obvious to one of ordinary skill in the art to provide the apparatus of Hartung et al. with an offset flexographic printing station in view of Bird so as to more easily convert an offset lithographic station to an offset flexographic station and to dry the first volatile printing/coating before subsequent operations to eliminate smearing of the printing/coating.

With respect to claims 7 and 8 it would have been obvious to one of ordinary skill in the art to provide the metallic particles of Hartung et al. (column 5 lines 2 - 10) with uniform or nonuniform sizes to achieve the desired optical effect.

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With respect to claims 9 and 11 note the plate cylinder (20.1), flexographic plate (column 3 lines 10 - 11), impression cylinder (18.1), and anilox roller (21) of Hartung et al. and the blanket cylinder (23a) of Bird.

With respect to claim 15 Hartung et al. teach a first flexographic station (56) having an impression cylinder (18.1), a first lithographic station (51), flexographic ink providing means (21, 32) at the first flexographic station, a second lithographic station (52-55), and a second flexographic station (57). Hartung et al. do not teach the first flexographic station comprising a blanket cylinder. Bird teaches a flexographic station (12) comprising a blanket cylinder (23a). It would have been obvious to one of ordinary skill in the art to provide the apparatus of Hartung et al. with an offset flexographic printing station in view of Bird so as to more easily convert an offset lithographic station to an offset flexographic station.

With respect to claim 16 note the plate cylinder (20.1), flexographic plate (column 4 lines 10 - 11), and anilox roller (21) of Hartung et al.

With respect to claim 17 Hartung et al. teach a first flexographic station (56, 16 - see column 6 lines 4 - 9) having a plate cylinder (20.1), an anilox roller (21), and an impression cylinder (18.1), a succeeding lithographic station (51-55, 11-15), and a second flexographic station (57, 17 - see column 6 lines 4 - 9). Although Hartung et al. do not specifically teach the flexographic plate having an "image", the broad recitation of an image would not appear to distinguish from a spot coating plate as such a plate would have certain areas in relief compared to other areas. Moreover, Hartung et al. repeatedly disclose that the flexographic stations are "printing/lacquering units" implying that the stations could provide a lacquer or print "images" and that the units print with "pigmented inks" (column 2 lines 44 - 46) or metallic inks (column 5

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lines 2 - 10). In view of these teachings, it would have been obvious to one of ordinary skill in the art to print images with the pigmented or metallic inks of Hartung et al. since uniform coatings of pigmented or metallic inks would be wasteful and unappealing. Hartung et al. do not teach the first flexographic station comprising a blanket cylinder. Bird teaches a flexographic station (12) comprising a blanket cylinder (23a). It would have been obvious to one of ordinary skill in the art to provide the apparatus of Hartung et al. with an offset flexographic printing station in view of Bird so as to more easily convert an offset lithographic station to an offset flexographic station.

With respect to claim 18 note the lithographic stations (11-15) for printing lithographic inks.

With respect to claim 20 Hartung et al. do not teach an air dryer. Bird teaches an air dryer (26a) adjacent the impression cylinder (24a). See column 5 lines 23 - 45 of Bird. It would have been obvious to one of ordinary skill in the art to provide the apparatus of Hartung et al. with an air drier in view of Bird so as to adequately dry the flexographic ink before subsequent printing.

With respect to claims 21 and 22 halftone plates are widely conventional in the art to provide the desired shading.

With respect to claim 23 see column 1 line 8 of Hartung et al.

With respect to claims 25 - 28 note the comments above with respect to claims 7 and 8.

With respect to claim 58 Hartung et al. teach a first flexographic station (56, 16) having a plate cylinder (21), a flexographic plate (column 4 lines 10 - 11), a flexographic ink supply and an anilox roller (21) and at least one subsequent lithographic station (11-15, 51-55). Hartung et

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al. do not teach the first flexographic station comprising a blanket cylinder. Bird teaches a flexographic station (12) comprising a blanket cylinder (23a). It would have been obvious to one of ordinary skill in the art to provide the apparatus of Hartung et al. with an offset flexographic printing station in view of Bird so as to more easily convert an offset lithographic station to an offset flexographic station.

With respect to claim 161 Hartung et al. teach a first flexographic station (56, 16) followed by a first lithographic station (12-15, 51-55). Hartung et al. do not teach a dryer disposed between the stations. Bird teaches a dryer (25a, column 3 lines 12 - 25, column 5 lines 51 - 67) disposed downstream of a flexographic station. It would have been obvious to one of ordinary skill in the art to provide the apparatus of Hartung et al. with a dryer in view of Bird so as to adequately dry the flexographic ink before subsequent printing.

With respect to claim 162 note the at least one further lithographic printing station (12-15, 52-55) of Hartung et al.

Claim 19 is rejected under 35 U.S.C. 103(a) as being unpatentable over Hartung et al. in view of Bird as applied to the claims above, and further in view of Sharp (US 4,403,550). Hartung et al. do not teach waterless inks. Sharp teaches the advantages of waterless lithographic inks. See column 2 line 66+ of Sharp. It would have been obvious to one of ordinary skill in the art to provide the apparatus of Hartung et al., as modified by Bird, with a waterless ink in view of Sharp so as to provide higher printing quality.

Claim 24 is rejected under 35 U.S.C. 103(a) as being unpatentable over Hartung et al. in view of Bird as applied to the claims above, and further in view of Schumacher et al. (US 5,079,044). Hartung et al. do not teach printing an encapsulated essence. Schumacher et al.

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teach printing an encapsulated essence. See column 1 lines 29 - 31 of Schumacher et al., for example. It would have been obvious to one of ordinary skill in the art to provide the apparatus of Hartung et al., as modified by Bird, with an encapsulated essence in view Schumacher so as to obtain a scratch-and-sniff printed substrate.

Claims 29, 33, 38, 156, and 157 are rejected under 35 U.S.C. 103(a) as being unpatentable over Hartung et al. in view of Pantone. With respect to claims 29 and 38, Hartung et al. teach printing with a flexographic ink (column 2 lines 44 - 46, column 3 lines 9 - 12, column 5 lines 2 - 10) on a substrate at a first flexographic station (56 or 16, see column 6 lines 4 - 9), transferring the substrate to a lithographic station (51 - 55 or 11 - 15), printing colored ink images at a subsequent lithographic printing station (51-55 or 12-15), and coating the substrate at a second flexographic station (17 or 57). Hartung et al. do not explicitly teach that the lithographic station prints on top of a flexographic image. Note that Hartung et al. repeatedly disclose that the flexographic stations are "printing/lacquering units" implying that the stations could provide a lacquer or print "images" and that the units print with "pigmented inks" (column 2 lines 44 - 46) or metallic inks (column 5 lines 2 - 10). Nevertheless, Pantone teaches that process (i.e. lithographic) color images should be printed both on top of and under metallic ink images to achieve the desired effect. See the entire document of Pantone. It would have been obvious to one of ordinary skill in the art to provide the method of Hartung et al. with the step of printing colored images on top of the metallic flexographic image in view of Pantone so as to provide the desired color and metallic effect to the image.

With respect to claim 33 conventional oleophilic lithographic inks are solvent based.

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With respect to claims 156 and 157 Hartung et al. teach printing an image at a first lithographic station (11), transferring the substrate to a first flexographic station (16, see column 6 lines 4 - 9), printing an image at a second lithographic station (e.g. 12), and then transferring the substrate to a second flexographic station (16, see column 6 lines 4 - 9). Hartung et al. do not specifically teach printing an image at the first and second flexographic stations. Pantone teaches that process color images should be printed both on top of and under metallic ink images to achieve the desired effect. See the entire document of Pantone. It would have been obvious to one of ordinary skill in the art to provide the method of Hartung et al. with the step of printing colored images on top of the metallic flexographic image in view of Pantone so as to provide the desired color and metallic effect to the image. With further respect to claim 157 the open terminology does not preclude a lithographic station (11) before the first flexographic station (16). In other words, the terminology "first flexographic station" and "first lithographic station" do not preclude flexographic or lithographic stations before each of these stations. The claim language does not explicitly recite that the "first" flexographic or lithographic stations is the absolute first of its type in the printing process.

Claims 17, 18, 20 - 23, 25 - 28, and 30 are rejected under 35 U.S.C. 103(a) as being unpatentable over Hartung et al. in view of Pantone as applied to claims 29, 33, 38, 156, and 157 above, and further in view of Bird. With respect to claims 17, 18, 20 - 23, and 25 - 28 note the comments above with respect to Hartung et al. and Bird. Pantone teaches that process color images should be printed both on top of and under metallic ink images to achieve the desired effect. With respect to claim 30 Hartung et al. do not teach immediately drying the flexographic ink. Bird teaches drying flexographic inks after printing. Note the comments above with respect

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to Bird. It would have been obvious to one of ordinary skill in the art to provide the method of Hartung et al. with the step of printing a flexographic metallic in view of Pantone so as to provide the desired color and metallic effect to the image and with a drier in view of Bird so as to adequately dry the flexographic ink before subsequent printing.

Claim 32 is rejected under 35 U.S.C. 103(a) as being unpatentable over Hartung et al. in view of Pantone as applied to claims 29, 33, 38, 156, and 157 above, and further in view of Sharp. Hartung et al. do not teach using waterless lithographic ink. Sharp teaches the advantages of waterless lithographic inks. See column 2 line 66+ of Sharp. It would have been obvious to one of ordinary skill in the art to provide the method of Hartung et al., as modified by Pantone, with a waterless ink in view of Sharp so as to provide higher printing quality.

Claims 34 and 35 are rejected under 35 U.S.C. 103(a) as being unpatentable over Hartung et al. in view of Pantone as applied to claims 29, 22, 38, 156, and 157 above, and further in view of Schumacher et al. Hartung et al. do not teach printing an encapsulated essence. Schumacher et al. teach printing an encapsulated essence. See column 1 lines 29 - 31 of Schumacher et al., for example. It would have been obvious to one of ordinary skill in the art to provide the method of Hartung et al., as modified by Pantone, with an encapsulated essence in view Schumacher so as to obtain a scratch-and-sniff printed substrate. With respect to claim 35 Hartung et al. teach an aqueous coating (17, 57).

Claims 36 is rejected under 35 U.S.C. 103(a) as being unpatentable over Hartung et al. in view of Pantone and Schumacher et al. as applied to claims 34 and 35 above, and further in view of Bird. Hartung et al. do not teach UV curing the coating. Bird teaches UV curing a coating. See column 6 lines 1 - 5 of Bird, for example. It would have been obvious to one of ordinary

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skill in the art to provide the method of Hartung et al., as modified by Pantone and Schumacher et al., with the step of UV curing the coating in view of Bird so as to provide a faster curing and more durable coating.

Claim 37 is rejected under 35 U.S.C. 103(a) as being unpatentable over Hartung et al. in view of Pantone, Bird, and Sharp. Hartung et al. teach applying a flexographic ink at a first flexographic station (16), transferring the substrate to a second flexographic station (16, column 6 lines 4 - 9) and applying a second flexographic ink, and printing an ink pattern over the flexographic ink at a subsequent lithographic station (12-15). Hartung et al. do not specifically teach applying a flexographic pattern, with a blanket cylinder, or printing a waterless ink at the lithographic station. Pantone teaches that process color images should be printed both on top of and under metallic ink images to achieve the desired effect. See the entire document of Pantone. Bird teaches the desirability of providing a convertible flexographic station with a blanket cylinder (23a). Sharp teaches the advantages of waterless lithographic printing. See column 2 line 66+ of Sharp. It would have been obvious to one of ordinary skill in the art to provide the method of Hartung et al. with the steps of flexographic printing metallic ink images in view of Pantone so as to provide the desired color and metallic effect to the image, with a blanket cylinder in the flexographic station in view of Bird so as to more easily convert the lithographic stations to flexographic stations, and use waterless ink in view of Sharp to achieve higher quality images. It is noted that the step of transferring the substrate to a second flexographic station does not preclude the existence of a lithographic station between the first and second flexographic printing stations.

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Claims 154, 159, 160, 163, and 164 are rejected under 35 U.S.C. 103(a) as being unpatentable over Hartung et al. in view of Bird (US 4,939,992) and Rodi (US 5,115,741).

With respect to claim 154 Hartung et al. teach a first flexographic station (56, 16 - see column 6 lines 4 - 9), a first lithographic station (12-15, 51-55), and a second flexographic station (57, 16 - see column 6 lines 4 - 9, 17). Hartung et al. do not teach dryers disposed after each of the stations. Bird teaches dryers (25a, 16) disposed downstream of flexographic stations (12, 13). See the Abstract of Bird, for example. Rodi teaches providing driers (22) after each lithographic station (3 - 6). It would have been obvious to one of ordinary skill in the art to provide the apparatus of Hartung et al. with driers after each of the flexographic and lithographic stations in view of Bird and Rodi so as prevent smearing of the printed images in subsequent printing stations.

With respect to claim 159 Hartung et al. teach a first lithographic station (11), a first flexographic station (16, column 6 lines 4 - 9), a second lithographic station (12), and a second flexographic station (16 or 17/57). Hartung et al. do not teach driers after the printing stations. Bird teaches providing driers (25, 16) after each flexographic station. Rodi teaches providing driers (22) after each lithographic (offset) station (3 - 6). It would have been obvious to one of ordinary skill in the art to provide the apparatus of Hartung et al. with driers after each of the flexographic and lithographic stations in view of Bird and Rodi so as prevent smearing of the printed images in subsequent printing stations.

With respect to claim 161 Hartung et al. teach a first lithographic station (11), a first flexographic station (16, column 6 lines 4 - 9), a second lithographic station (12), and a second flexographic station (16 or 17/57). Hartung et al. do not teach driers after each of the printing

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stations. Bird teaches providing driers (25, 16) after each flexographic station. Rodi teaches providing driers (22) after each lithographic (offset) station (3 - 6). It would have been obvious to one of ordinary skill in the art to provide the apparatus of Hartung et al. with driers after each of the flexographic and lithographic stations in view of Bird and Rodi so as prevent smearing of the printed images in subsequent printing stations.

With respect to claims 163 Hartung et al. do not teach a dryer disposed after the first lithographic station. Rodi teaches providing driers (22) after each lithographic (offset) station (3 - 6). It would have been obvious to one of ordinary skill in the art to provide the apparatus of Hartung et al., as modified by Bird, with a dryer after the first lithographic station in view of Rodi so as prevent smearing of the printed images in subsequent printing stations.

With respect to claim 164 note the second flexographic station (17, 57) of Hartung et al.

Claim 158 is rejected under 35 U.S.C. 103(a) as being unpatentable over Hartung et al. in view of Bird and Rodi as applied to the claims above, and further in view of Pantone. Hartung et al. teach printing at a first lithographic station (11), at a first flexographic station (16, column 6 lines 4 - 9), at a second lithographic station (12), and at a second flexographic station (16 or 17/57). Hartung et al. do not teach driers after the printing stations or printing an image at the flexographic stations. Bird teaches providing driers (25, 16) after each flexographic station. Rodi teaches providing driers (22) after each lithographic (offset) station (3 - 6). Pantone teaches that process color images should be printed both on top of and under metallic ink images to achieve the desired effect. See the entire document of Pantone. It would have been obvious to one of ordinary skill in the art to provide the apparatus of Hartung et al. with driers after each of the flexographic and lithographic stations in view of Bird and Rodi so as prevent smearing of the

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printed images in subsequent printing stations and flexographic printing metallic ink images in view of Pantone so as to provide the desired color and metallic effect to the image.

Claims 1 - 5, 12 - 14, 39 - 41, 82 - 84 are allowed.

Claims 31, 42, 43, 49 - 57, 59 - 81, 85 - 152, and 155 have been canceled.

The Declarations of Jesse Speight Williamson and Gary Doughty filed on September 26, 2000, Steve M. Garner filed on April 7, 2000, and the Joint Declaration filed on July 7, 2000 under 37 CFR 1.131 have been considered but are ineffective to overcome the Hartung et al. reference.

The evidence submitted is insufficient to establish possession of the whole invention claimed. First, the Declaration of Jesse Williamson appears to only reveal the concept of placing a conventional end of press tower *coater* of a MAN-Roland 706 press up front. For example, there is no disclosure of printing "images" with this coater, or any of the other limitations in the instant claims. Conception is more than a vague idea of how to solve a problem. The requisite means themselves and their interaction must also be comprehended. See *Mergenthaler v. Scudder*, 1897 C.D. 724, 81 O.G. 1417 (D.C. Cir. 1897). See M.P.E.P. § 715.02.

The evidence submitted is insufficient to establish diligence from a date prior to the date of reduction to practice of the Hartung et al. reference to either a constructive reduction to practice or an actual reduction to practice. The Declarations appear to only establish diligence beginning in, at the earliest, July of 1994. See paragraphs 3, 6, and 8 - 12 of the Joint Declaration and paragraphs 4 and 5 of the Declaration of Steve M. Garner. Since there is no diligence on the part of the inventors before the April 4, 1994 effective date of the Hartung et al. reference, the declarations are insufficient. See M.P.E.P. §§ 715.07(III) and 715.07(a).

Applicant's arguments filed January 13, 2005 have been fully considered but they are not persuasive. With respect to the apparatus claims, with possible exception of claim 17, the recitations of the flexographic stations applying an "image" do not distinguish from the structure disclosed by Hartung et al. Since Hartung et al. disclose "flexographic stations", the broad recitation of a flexographic station *for* printing an image does not distinguish the claimed structure from the flexographic station of Hartung et al. With respect to apparatus claim 17 and the method claims, Pantone clearly teach printing lithographic color and metallic images, each on top of the other. In view of the teachings of Hartung et al. to print metallic inks by flexography, it would have been obvious to one of ordinary skill in the art to utilize the flexographic stations of Hartung et al. to apply metallic images in combination with the lithographic color images. With respect to Bird and Rodi there is no unobviousness in drying flexographic or lithographic inks before subsequent printing stations. The motivation is self evident and applicant has not overcome this *prima facie* case of obviousness. With respect to the sequence of stations, e.g. whether a lithographic or flexographic station is recited as the first station, the claims utilize open terminology which do not prohibit a different type of station preceding the first recited station. Furthermore, with respect to claim 37 the recitation of printing at first and second flexographic stations does not explicitly state that there are no intervening lithographic stations.

Applicant is reminded of the continuing obligation under 37 CFR 1.178(b), to timely apprise the Office of any prior or concurrent proceeding in which Patent No. 5,630,363 is or was involved. These proceedings would include interferences, reissues, reexaminations, copending applications, and litigation. Applicant is further reminded of the continuing obligation under 37

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CFR 1.56, to timely apprise the Office of any information which is material to patentability of the claims under consideration in this reissue application. These obligations rest with each individual associated with the filing and prosecution of this application for reissue. See also MPEP §§ 1404, 1442.01 and 1442.04.

Applicant is reminded to file a Supplemental Reissue Oath/Declaration in accordance with 37 C.F.R. § 1.175(b)(1) to state that every error not covered by a previous oath/declaration arose without deceptive intention on the part of the applicant. See M.P.E.P. §§ 1414.01, 1444.

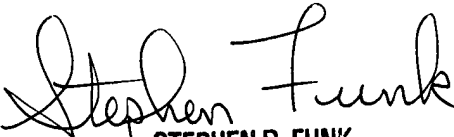
Applicant is notified that any subsequent amendment to the claims must comply with 37 CFR 1.173(c) by providing an explanation of the specific support in the disclosure of the patent for changes made to the claims. In particular, the sequence of the flexographic and lithographic stations and which stations provide images must be supported by the patent disclosure.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Stephen R. Funk whose telephone number is (571) 272-2164.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Drew Hirshfeld, can be reached at (571) 272-2168.

The fax phone number for ALL official papers is (703) 872-9306. Upon consulting with the examiner *unofficial* papers only may be faxed directly to the examiner at (571) 273-2164.

SRF
March 25, 2005


STEPHEN R. FUNK
PRIMARY EXAMINER